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IN THE SUPREME COURT
OF THE UNITED STATES

October Term, 1975

No. 75-1386

John G. Hadley, Appellant

v.

The State of New Hampshire, Appellee

On Appeal from the
Supreme Court of
the State of New Hampshire

# JURISDICTIONAL STATEMENT

**Richard G. Smith,** *Esquire*
**SMITH & ANGELO**
**Seven Main Street**
**Jaffrey, New Hampshire 03462**
*Counsel for Appellant*

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**In the SUPREME COURT of the UNITED STATES**

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## JURISDICTIONAL STATEMENT

John G. Hadley appeals from a judgment of the Supreme Court of New Hampshire, entered on September 30, 1975, upholding the constitutionality of a statute, and submits this statement to show that the Supreme Court of the United States has jurisdiction over the appeal and that a substantial question is presented.

## OPINION BELOW

The opinion of the Supreme Court of New Hampshire is reported in ___ N.H. ___, 345 A. 2d 160 (1975). Copies of the opinion are attached hereto as Appendix A.

## JURISDICTION

The suit is one to enjoin the enforcement of a state statute as unconstitutional. The judgment of the Supreme Court of New Hampshire was entered on September 30, 1975, and notice of appeal was filed in that court on December 10, 1975. The jurisdiction of the Supreme Court to review this decision by direct appeal rests upon 28 U.S.C. § 1257 (2).

## QUESTION PRESENTED

Whether N.H.R.S.A. § 249:51 violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

## STATUTES INVOLVED

N.H.R.S.A. §§ 249:51 and 502-A:17 are set forth in Appendix B hereto.

## STATEMENT

John G. Hadley received a summons for violating N.H.R.S.A. § 249:51 by failing to cover a dump truck hauling gravel. Prior to trial in the Peterborough District Court, he moved to dismiss the Complaint, alleging that he was denied equal protection of the laws in that the statute under which he was charged exempts farm vehicles and highway vehicles from its provisions. The appellant also moved that the constitutional



question be transferred to the Supreme Court of New Hampshire pursuant to N.H.R.S.A. § 502-A:17. The motion to transfer was granted on October 21, 1974. On September 30, 1975, the Supreme Court of New Hampshire concluded that the statute was constitutional and remanded the case to the Peterborough District Court.

## THE QUESTIONS ARE SUBSTANTIAL

The issue involved in this appeal is whether the appellant has been denied equal protection of the laws under the fourteenth amendment. The penal statute under which the appellant was charged exempts certain similar classes from its purview, even though the exclusion of these groups bears no substantial relation to the object of the legislation. Royster Guano Co. v. Virginia, 253 U.S. 412 (1920). The purpose of the statute is to enable the state to maintain safe highways by providing penalties for dropping loads from vehicles on public highways.

The statute, however, exempts farm vehicles and municipal and state highway equipment from its provisions. These vehicles are excluded arbitrarily and without a rational basis. Morey v. Doud, 354 U.S. 457 (1957). The classification is not rationally related to a legitimate governmental interest. Frontiero v. Richardson, 411 U.S. 677 (1973). The purpose behind the law, the maintenance of safe highways, does not justify the legislative exclusion. Salyer Land Co. v. Tulare Lake Basin Water Storage District, 410 U.S. 719 (1973). Since all that is required to comply with the statute is to cover a load, the exemption of certain vehicles is arbitrary and irrational. Reed v. Reed, 404 U.S. 71 (1971).

It is submitted that the decision of the Supreme Court of New Hampshire fails to recognize that the exemption of certain classes of vehicles from the purview of the statute is arbitrary and unreasonable. The court upheld the exemptions even though the state has no interest in permitting any vehicle to drop any load upon a state highway. In Sproles v. Binford, 286 U.S. 374 (1932), this Court permitted exemptions in a highway use statute only where the state had a distinct public interest in the purpose behind the exemption. Since no such interest exists here, a substantial and important question is presented as to whether the statute violates the fourteenth amendment.

Respectfully submitted,

Richard G. Smith
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Seven Main Street
Jaffrey, New Hampshire 03452

## Appendix A

[Copy of Judgment Below]

## Appendix B

[Text of Statutes]

## Appendix A

NOTICE: This opinion is subject to formal revision before publication in the New Hampshire Reports. Readers are requested to notify the Reporter, Supreme Court of New Hampshire, Supreme Court Building, Concord, New Hampshire, 03301, of any typograpical or other formal errors, in order that corrections may be made before the opinion goes to press.

Peterborough District Court
No. 7186

**State of New Hampshire**

**v.**

**John G. Hadley**

**September 30, 1975**

Warren B. Rudman, attorney general, and Peter W. Heed, under Supreme Court Rule 23 (Mr. Heed orally), for the State.

Smith & Angelo (Mr. Bruce R. Angelo orally) for the defendant.

**KENISON, C.J.** This appeal involves the constitutionality of RSA 249:51 (Supp. 1973), Spillage of Material. On September 25, 1974, the defendant received a summons for violating this statute by failing to cover a dump truck hauling gravel. Prior to trial he moved to dismiss the complaint alleging that the statute unreasonably exempted certain operators similarly situated and thus deprived him of the equal protection of the laws. See Morey v. Doud, 354 U.S. 457 (1957). The defendant moved that the constitutional question be transferred



to this court, and Brighton, J., so ordered. RSA 502-A:17 (Supp. 1973).

RSA 249:51 I (Supp. 1973) provides: "No vehicle shall be driven.....on any highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking or otherwise escaping.....". RSA 249:51 II (Supp. 1973) provides: "No person shall operate on any highway any vehicle with any load unless said load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner a hazard to other users of the highway. Without limiting the foregoing provision, no person shall operate on any highway any open vehicle loaded with earth, sand, asphalt, stone, gravel or other particulate substance unless said vehicle is equipped with and said load is covered and secured by a close-fitting tarpaulin which prevents the escape of any substance from said load onto the highway." RSA 249:51 IV (Supp. 1973) states that these provisions "shall not apply to a local farmer transporting his own farm products or materials incidental to his farming operations where such transporting requires incidental use of a public highway.....". RSA 249:51 V (Supp. 1973) states that RSA 249:51 II "shall not apply to: (a) The operation of highway building equipment.....and motor vehicles used in the construction of highways provided that such equipment or motor vehicle is used within a highway construction zone....." or "(b) The operation of municipal and state highway maintenance equipment." This statute is derived from § 14-106 of the Uniform Vehicle Code (1968). Cf. Erwin v. State, 262 So. 2d 677 (Fla. 1972).

The fourteenth amendment requires that there be a rational relationship between the purpose of the statute and the classifications which it makes. Belkner v. Preston, 115 N.H. 15,

332 A. 2d 168 (1975). The leading case regarding highway safety classifications is Sproles v. Binford, 286 U.S. 374 (1932), in which the Court sustained a Texas statute which exempted from general limitations on vehicle size "implements of husbandry" and "highway building and maintenance machinery temporarily propelled or moved upon the public highways". The Court relied on the fact that "the movement [of such vehicles] would be relatively temporary and infrequent as compared with the ordinary uses of the highways by motor trucks". 286 U.S. at 392. In Aero Transit Co. v. Georgia Pub. Serv. Comm'n., 295 U.S. 285, 293 (1935), the Court indicated that the validity of exceptions to safety regulations would depend on such considerations as "the extent or regularity of the traffic thus excepted". Evidently, a legislature may exempt certain activity from regulation if the danger from the activity, due to its infrequency, is slight compared to other activity which is subject to regulation.

The exemption for farming operations is valid under Sproles v. Binford supra. The legislature could reasonably conclude that such activity creates significantly less danger than other traffic and that requiring the farmer to cover his load each time would impose a burden materially greater than that imposed on other operators. There is general recognition that such activity is different from ordinary traffic so that it may be entitled to special exemptions as well as subject to special regulation. See National Committee on Uniform Traffic Laws and Ordinances, Uniform Vehicle Code and Model Traffic Ordinance, §§ 12-215, 14-101 (1968).

The exemption of road construction equipment in construction zones has a rational basis. In highway construction zones motorists receive special notice of potential hazards and ordinarily are required to reduce their speed, thereby reducing the dangers against which the statute guards. Furthermore in



such zones it would be extraordinarily burdensome to require that vehicles be covered each time they moved. The exception for state and municipal maintenance equipment can rest on consideration of the nature of the work involved and on the opportunity for administrative control. Maintenance work may require frequent short trips, which would materially increase the burden of covering the load in comparison to other operators. It is important to note that this exemption relates primarily to the duty to cover vehicles carrying particulate matter. Public employees are still subject to prosecution for spilling material. The legislature could reasonably find that public operators are more likely to comply because they are subject to administrative control while private operators are not. Citizens are more likely to complain effectively about the operation of public vehicles than about private ones. Similarly law enforcement officers may challenge potentially dangerous practices of public vehicles through government channels, an alternative not available in the case of private operators. Although no case exactly in point has been found, the most relevant precedents support the challenged provisions. Exemptions of public vehicles from weight limits have frequently been sustained. State v. Seraphine, 266 Wis. 118, 62 N.W. 2d 403 (1954); Alexander v. State, 228 Ga. 179, 184 S.E. 2d 450 (1971); Department of Public Safety v. Freeman Ready-Mix Co., 292 Ala. 380, 295 So. 2d 242 (1974). In the present case the legislature could reasonably find that the exempted activities involve less danger and would bear a greater burden than traffic in general if subjected to the statute. Therefore RSA 249:51 (Supp. 1973) satisfies the command of the fourteenth amendment and is constitutional.

Remanded.

All concurred.

## Appendix B

**249:51 [New] Spillage of Material.**

I. No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

II. No person shall operate on any highway any vehicle with any load unless said load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached or in any manner a hazard to other users of the highway. Without limiting the foregoing provision, no person shall operate on any highway any open vehicle loaded with earth, sand, asphalt, stone, gravel or other particulate substance unless said vehicle is equipped with and said load is covered and secured by a close-fitting tarpaulin which prevents the escape of any substance from said load onto the highway. [Amended 1973, 573:1, eff. Nov. 2, 1973.]

III. Any person who violates the provisions of this section shall be guilty of a violation if a natural person, or guilty of a misdemeanor if any other person. Any person shall be liable to the state or town for any damage done to the highway by spillage. [Amended 1973, 530:32, eff. at 11:59 P.M., Oct. 31, 1973.]

IV. The provisions of paragraphs I, II, and III of this section shall not apply to a local farmer transporting his own farm products or materials incidental to his farming operations where



such transporting requires incidental use of a public highway provided that such farmer shall not thereby be relieved of his duty to exercise reasonable care in carrying on such operations.

V. The provisions of paragraph II shall not apply to:

(a) The operation of highway building equipment as defined in RSA 259:1, Xii and motor vehicles used in the construction of highways provided that such equipment or motor vehicle is used within a highway construction zone as prescribed by the commissioner, public works and highways, provided that the operator of any such vehicle shall not thereby be relieved of his duty to exercise reasonable care.

(b) The operation of municipal and state highway maintenance equipment.

(c) The operation of any vehicle on a highway at speeds of less than thirty miles per hour. [Added 1973, 573:2, eff. Nov. 2, 1973.]

**Source.** 1965, 178:1. 1973, 530:32, eff. at 11:59 P.M., Oct. 31, 1973; 573:1, 2, eff. Nov. 2, 1973.

**Amendments – 1973.** Paragraph II: Chapter 573 added provisions relating to covering certain loads.

Paragraph III: Chapter 530:32 amended paragraph generally to conform provisions to new criminal code.

Paragraph V. Added by chapter 573.

**502-A:17-a Transfers to Supreme Court.**

In any criminal case or civil cause in any district court questions of law may be transferred to the supreme court in the same manner as that from the superior court under RSA 491: 17, provided that the district court justice hearing the case to be transferred shall, if either party request it, file as a part of the transferred case his findings in writing, stating the facts found and his rulings of law.

Source. 1967, 40:1. 1971, 507:3, eff. Sept. 4, 1971.
Amendments – 1971. Added proviso.

ANNOTATIONS

**1. Effect of appeal**

Whether evidentiary question was transferred to supreme court before, or after, appeal to superior court, effect of appeal of criminal conviction in district court to superior court was to vacate judgment of district court and divest it of further jurisdiction, and for the supreme court to rule upon the question transferred from the district court while the case was pending in the superior court would amount to unsolicited advice to superior court on a question that might never arise in the trial de novo there; state's motion to vacate transfer on ground that district court had no jurisdiction to transfer the exception after an appeal to superior court would thus be granted. State v. Hennessey (1970) 110 NH 447, 270 A2d 613.

**2. State appeals**

The state has no right to appeal an adverse ruling in a criminal case. State v. Greenwood (1973) 113 NH 727, 313 A2d 725.

**3. Filing**

Whether transfer of questions of law to supreme court was denied because case was placed in the mail a day after the last day for filing, that is, it was placed in the mail on judgment day, or denied in exercise of district courts statutory discretion, there was no abuse of discretion. Gallo v. Century Broadcasting (1974) 114 NH 810, 330 A2d 780.

JUN 21 1976

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1975

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No. 75-1386

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JOHN G. HADLEY,
APPELLANT,

V.

THE STATE OF NEW HAMPSHIRE,
APPELLEE.

---

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW HAMPSHIRE

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# MOTION TO DISMISS OR AFFIRM

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1975

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NO. 75-1386

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John G. Hadley,
APPELLANT,

V.

The State of New Hampshire,
Appellee.

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW HAMPSHIRE

---

MOTION TO DISMISS OR AFFIRM

---

The Appellee moves the Court to dismiss the appeal herein or, in the alternative, to affirm the judgment of the Supreme Court of the State of New Hampshire on the ground that it is manifest that the questions presented are so unsubstantial as not to warrant further argument.

## I. STATEMENT OF THE FACTS AND PROCEEDINGS BELOW.

This appeal involves the constitutional challenge on equal protection grounds of New Hampshire RSA 249:51 (Supp. 1975), Spillage of Material.

### A. The Facts

On the morning of September 25, 1974, the Appellant, John G. Hadley, was operating a ten wheel dump truck on Route 202, Hancock, New Hampshire. Appellant was hauling gravel at a rate of speed of thirty-eight (38) miles per hour without having a top or cover on the load. A New Hampshire State Trooper stopped the Appellant and issued him a citation for being in violation of New Hampshire RSA 249:51 (Supp. 1975). That statute, which is designed to prohibit spillage of materials onto State highways, provides that it shall be a violation for any person to operate a vehicle upon a highway at a speed in excess of thirty (30) miles per hour if any particulate load is not securely



fastened or covered. The statute applies to all vehicles except highway building equipment within construction zones, State and municipal highway maintenance equipment, and local farm equipment where operation of such equipment involves mere incidental use of the public highways.

### B. The Proceedings Below

The Appellant appeared before the Peterborough, New Hampshire District Court on October 21, 1974, in answer to the complaint alleging a violation of New Hampshire RSA 249:51 (Supp. 1975). At the close of the State's case, the Appellant entered a Motion to Dismiss the complaint on the ground that New Hampshire RSA 249:51 (Supp. 1975) violated Appellant's guarantee to the equal protection of the laws under the Fourteenth Amendment of the United States Constitution. The District Court, Brighton, P.J., transferred the constitutional question to the New Hampshire Supreme

Court pursuant to New Hampshire RSA 502-A:17-a (Supp. 1975). On September 30, 1975, the New Hampshire Supreme Court held in a unanimous opinion that the challenged statute was constitutional and remanded the case to the Peterborough District Court. State of New Hampshire vs. John G. Hadley, 115 N.H. ____, 345 A.2d 160 (1975). (See Appendix A of Jurisdictional Statement of Appellant.)

On December 10, 1975, the Appellant filed his Notice of Appeal to the Supreme Court of the United States. The case was docketed on March 29, 1976, and Appellant thereafter filed the required Jurisdictional Statement.



## II. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.

### A. Constitutional Provisions

Constitution of the United States, Amendment XIV §1 (in pertinent part):

> " . . . nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

### B. Statutory Provisions

New Hampshire RSA 249:51 (Supp. 1975):

> "249:51 [New] Spillage of Material.
>
> I. No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.
>
> II. No person shall operate on any highway any vehicle with any load unless said load and any covering thereon is securely fastened so as to prevent said

"covering or load from becoming loose, detached or in any manner a hazard to other users of the highway. Without limiting the foregoing provision, no person shall operate on any highway any open vehicle loaded with earth, sand, asphalt, stone, gravel or other particulate substance unless said vehicle is equipped with and said load is covered and secured by a close-fitting tarpaulin which prevents the escape of any substance from said load onto the highway. [Amended 1973, 573:1, eff. Nov. 2, 1973.]

III. Any person who violates the provisions of this section shall be guilty of a violation if a natural person, or guilty of a misdemeanor if any other person. Any person shall be liable to the state or town for any damage done to the highway by spillage. [Amended 1973, 530:32, eff. at 11:59 P.M., Oct. 31, 1973.]

IV. The provisions of paragraphs I, II, and III of this section shall not apply to a local farmer transporting his own farm products or materials incidental to his farming operations where such transporting requires incidental use of a public highway provided that such farmer shall not thereby be relieved of his duty to exercise reasonable care in carrying on such operations.



"V. The provisions of paragraph II shall not apply to:

(a) The operation of highway building equipment as defined in RSA 259:1, Xii and motor vehicles used in the construction of highways provided that such equipment or motor vehicle is used within a highway construction zone as prescribed by the commissioner, public works and highways, provided that the operator of any such vehicle shall not thereby be relieved of his duty to exercise reasonable care.

(b) The operation of municipal and state highway maintenance equipment.

(c) The operation of any vehicle on a highway at speeds of less than thirty miles per hour. [Added 1973, 573:2, eff. Nov. 2, 1973.]"

New Hampshire RSA 502-A:17-a (Supp. 1975):

"502-A:17-a Transfers to Supreme Court.

In any criminal case or civil cause in any district court questions of law may be transferred to the supreme court in the same manner as that from the superior court under RSA 491:17, provided that the district court justice hearing the case to be transferred shall, if either party request it, file as a part of the transferred case his findings in writing, stating the facts found and his rulings of law."

## III. ARGUMENT

### THE QUESTIONS PRESENTED BY THIS APPEAL ARE SO UNSUBSTANTIAL AS NOT TO WARRANT FURTHER ARGUMENT.

The Appellant (Defendant below) seeks to invoke the jurisdiction of this Court under 28 U.S.C. §1257(2) to review the decision of the New Hampshire Supreme Court in which that Court sustained the constitutionality of New Hampshire RSA 249:51 (Supp. 1975). State of New Hampshire vs. John G. Hadley, 115 N.H. ____, 345 A.2d 160 (1975). (See Appendix A of Appellant's Jurisdictional Statement.) The New Hampshire Supreme Court's decision was based primarily on the ground that the activities exempted from regulation by the challenged statute involve less danger and would bear a greater burden if subjected to regulation than traffic in general. The Court concluded that the statute's classifications are both reasonable and rationally related to the legitimate State objective of building and maintaining safe highways.



The decision of the New Hampshire Supreme Court is plainly correct. The challenged statute's purpose is to promote highway safety by prohibiting the spillage of materials onto State highways. The statute accomplishes this end by prohibiting the operators of all vehicles from allowing their loads to leak or drop onto State highways, but vehicles travelling in excess of thirty (30) miles per hour are subject to the additional requirement that their loads be covered. Three classes of vehicles are exempted from this additional load covering requirement: (1) highway building equipment operating within construction zones; (2) State and municipal highway maintenance equipment; and (3) local farm equipment where operation of such equipment involves mere incidental use of the public highways. The New Hampshire Supreme Court correctly held that the challenged statute satisfies the command of the

the Fourteenth Amendment because, the Court ruled, the State Legislature could reasonably find that the three exempted activities involve less danger and would bear a greater burden if subjected to the load-covering regulation than traffic in general.

New Hampshire RSA 249:51 (Supp. 1975) concerns highway safety regulations and does not involve any recognized fundamental right (see Shapiro vs. Thompson, 394 U.S. 618 (1969)) or suspect classification (see Reed vs. Reed, 404 U.S. 71 (1971)). When the infringement of a fundamental right or the application of some suspect classification is absent, the constitutional standard to be applied is the so-called "reasonableness" test. See, e.g., Morey vs. Doud, 354 U.S. 457 (1957). That is, the Fourteenth Amendment requires that when a law creates classifications, those classifications must not be capricious or arbitrary, but must be reasonable and must



have a rational basis. Further, there must exist some reasonable relationship between the purpose of the statute and the classifications which it creates. See, e.g., Morey vs. Doud, supra. The burden of showing that statutory classifications are unreasonable rests on the party assailing the law. Morey vs. Doud, supra.

When tested by the reasonableness standard, it is patently clear that the classifications created by New Hampshire RSA 249:51 (Supp. 1975) comport with the equal protection guarantee of the Fourteenth Amendment. The exemption for local farmers is eminently reasonable for, as the New Hampshire Supreme Court recognized, the State Legislature could rationally conclude that local farming activity creates significantly less danger than other traffic and that requiring a farmer to cover his load each time he incidentally uses a highway would impose a burden materially greater than that imposed on other operators.

The exemption for highway construction equipment is also reasonable for not only would it be extraordinarily burdensome to require such vehicles to be covered every time they moved within a construction zone, but within such zones motorists receive special notice of potential hazards and ordinarily are required to reduce their speedy, thereby reducing the dangers against which the statute guards. Finally, the New Hampshire Supreme Court ruled that the reasonableness of the exemption for State and municipal highway maintenance equipment rests on considerations of the nature of the work and the opportunity for administrative control. Maintenance work requires frequent short trips which would materially increase the burden of covering a load in comparison to other operators, and the State Legislature could reasonably find that public operators are more likely to exercise reasonable care with respect to their loads since they are subject to administrative



control while private operators are not. In sum, the classifications in New Hampshire RSA 249:51 (Supp. 1975) are narrowly drawn, reasonable, and rationally related to the legitimate State objective of building and maintaining safe highways.

The leading cases regarding highway safety classifications, Sproles vs. Binford, 286 U.S. 374 (1932), and Aero Transit Co. vs. Georgia Public Service Commission, 295 U.S. 285 (1935), lend strong support to the decision of the New Hampshire Supreme Court in the instant case. In Sproles, the Court sustained a Texas statute which exempted from general limitations on vehicle size "implements of husbandry" and "highway building and maintenance machinery temporarily propelled or moved upon the public highways." Sproles, supra, at 392. The Court relied on the fact that "the movement [of such vehicles] would be relatively temporary and infrequent as compared with the ordinary

uses of the highways by motor trucks." Sproles, supra, at 392. Similarly, in Aero Transit Co., the Court indicated that the validity of exceptions of safety regulations would depend on such considerations as "the extent or regularity of the traffic thus expected." Aero Transit Co., supra, at 293. Finally, although Sproles and Aero Transit Co. do not directly control in the instance of the exemption concerning state and municipal highway maintenance vehicles, this classification finds support in a line of state cases which sustain exemptions of public vehicles from weight limits. Department of Public Safety vs. Freeman Ready-Mix Co., 292 Ala. 380, 295 So.2d 242 (1974); Alexander vs. State, 228 Ga. 179, 184 S.E.2d 450 (1971); and State vs. Seraphine, 266 Wis. 118, 62 N.W.2d 403 (1954).

Sproles and Aero Transit Co. are still good law, and there has been no significant



conflict in court opinions regarding the relationship between highway safety classifications and the equal protection clause of the Fourteenth Amendment since Sproles was decided in 1932. Appellant presents no cogent reason why the Court should rethink this relationship now. The State of New Hampshire submits that the decision of the New Hampshire Supreme Court directly squares with Sproles and its progeny and is, therefore, plainly correct.

## IV. CONCLUSION

Appellee respectfully submits that the questions upon which this cause depend are so unsubstantial as not to need further argument, and Appellee respectfully moves the Court to dismiss this appeal or, in the alternative, to affirm the judgment entered in the cause by the New Hampshire Supreme Court.

Respectfully submitted,

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Counsel for Appellee